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09/593,767	06/14/2000	Minoru Torii	862.C1926	8036
5514 7590 01/18/2007 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER DIVECHA, KAMAL B	
			ART UNIT 2151	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
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Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/593,767	Applicant(s) TORII, MINORU	
	Examiner KAMAL B. DIVECHA	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

Claims 1-15 are pending in this application.

Reassignment of an application to another Examiner

This application has been reassigned to another examiner. The examiner has carefully evaluated the instant claims in view of the prior art. The examiner has conducted a new and careful search of the pertinent prior art areas and presents herein an examination of the claims in view of the newly discovered prior art references. The instant office action is made non-final in order that Applicant may properly respond on the record and submit any necessary amendment to the claims. All prior rejections/objections and/or allowable subject are withdrawn in view of the newly discovered prior art.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground

Art Unit: 2151

provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1-15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 14-20 of copending Application No. 11/330,097.

Although the conflicting claims are not identical, they are not patentably distinct from each other because claims the claimed subject in both the application is almost similar.

For example: claims 1, 7 and 13 of present application are equivalent to claims 14, 17 and 20 of co-pending application.

Claims 3, 9 of present application are equivalent to claim 16 of co-pending application.

Claims 4-6, 10-12 of present application does not further limit over the limitations in claim 1, 7 and 13 of present application.

The subject matter in claims 14-15 of present application is similar to subject matter as in claims 1-6 of present application, in a sense that they both display a web page for managing network devices including embedded links for obtaining more information about the device.

The claims in both applications are reproduced herein:

Claims 1-6 of present application reads as follows:

Claim 1 (currently amended): A network device managing apparatus for monitoring and managing a network device based on processing first display information of the device and second display information linked from the first display information, said apparatus comprising:

recognizing means for recognizing link information embedded in the first display information;

obtaining means for obtaining instruction data to be used for displaying information based on the second display information;

acquiring means for acquiring management information of the device related to the second display information in accordance with the link information recognized by said recognizing means before said obtaining means obtains the instruction data to display the second display information;

generating means for generating output information corresponding to the second display information to prepare for displaying the acquired management information in a web page in a predetermined form by using the obtained instruction data; and

transferring means for transferring, to a predetermined communication link, the output information generated by said generating means.

Claim 2 (original): The apparatus according to claim 1, wherein the management information is information in an MIB form.

Claim 3 (previously presented): The apparatus according to claim 1, wherein said generating means generates the output information based on data, which includes an HTML format for defining the predetermined form, and a management information item of the device.

Claim 4 (original): The apparatus according to claim 1, wherein said generating means generates the output information in an HTML format.

Claim 5 (previously presented): The apparatus according to claim 1, further comprising output means for outputting the output information.

Claim 6 (previously presented): The apparatus according to claim 1, further comprising output means for displaying the output information in accordance with a URL.

And, claims 14-16 of co-pending application reads as follows:

Claim 14 (currently amended): A network device managing apparatus for managing a network device based on processing first display information of the device and second display information linked from the first display information, said apparatus comprising:

recognizing means for recognizing link information embedded in the first display information;

obtaining means for obtaining an instruction for displaying information based on the second display information;

acquiring means for acquiring, from the network device, management information of the device related to the second display information in accordance with the link information recognized by said recognizing means before said obtaining means obtains the instruction to display the information based on the second display information; and

transfer means for providing output information corresponding to the second display information including the acquired management information, and for transferring[[,]] the output information to a predetermined communication link; ~~output information corresponding to the second display information including the acquired management information.~~

Claim 15 (previously presented): A device according to claim 14, wherein the first display information is described in a web page.

Claim 16 (previously presented): A device according to claim 14, wherein said acquiring means acquires management information in accordance with template data which describes management information to be acquired from the network device.

Even though the language of the claim is not similar, both sets of claims disclose SIMILAR INVENTION, i.e. a network management device comprising a web-based management interface for displaying the managed devices and/or information regarding the

Art Unit: 2151

managed devices of the network, wherein the display includes link information embedded therein which when actuated or selected by the user, displays a second display comprising the information of the network device, wherein the display is in html format.

“A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or **anticipated by**, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus). “ ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

2. Claims 1, 3-7, 9-13, and 14-15 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-98 of U.S. Patent No. 6,308,205 B1 (hereinafter ‘205). Although the conflicting claims are not identical, they are not patentably distinct from each other because they disclose the similar subject matter, Invention and/or utility.

For example: claim 1 of present application is equivalent to claim 1 of ‘205 Patent.

From a technical point of view, both claims are similar because they both disclose a web-browser type of management interface with link information embedded in it, which when selected and executed, present the user with the information or second display in accordance with the link information, such information can include status and details of the network device.

Art Unit: 2151

Both claims includes a means for obtaining or acquiring the management information before receiving the instruction to display the second display page.

Claim 3 of present application is similar to claim 1-14, because in '205 Patent, the second display page, as in claim 1, and such as in fig. 7, is indeed generated based on a template data (see '205 Patent, col. 11 L37 to col. 13 L30).

Claim 4 is equivalent to claim 1, 4 and 6 of '205 Patent.

Claim 5 of present application is equivalent to claims 1, 6 and 7 of '205 Patent.

Claim 6 of present application is equivalent to claims 1 and 6 of '205 Patent.

Claims 7, 9-13 are rejected for the same reasons a set forth in claims 1, 3-6.

Claims 14-15 of present application are similar to claims 1-14 of '205 Patent.

3. Claims 2 and 8 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-98 of U.S. Patent No. 6,308,205 B1 in view of claims 1-28 of U. S. Patent No. 7,028,081 B2 (hereinafter '081).

As per claim 2 and 8, '205 Patent does not disclose the apparatus wherein the management information is information in an MIB form.

'081 Patent, explicitly discloses the apparatus for acquiring the management information and storing the information in a MIB form (see claims 1 and 12).

Therefore it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify '205 in view of '081 in order to store the management data in form of MIB.

Art Unit: 2151

One of ordinary skilled in the art would have been motivated because MIB is well known for storing the management information or data of a network.

4. Claims 1-15 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-28 of U. S. Patent No. 7,028,081 in view of claims 1-98 of U.S. Patent No. 6,308,205 B1.

Claims 1-15 are rejected for the same reasons as set forth in paragraphs 2 and 3 above.

Applicant is advised to take an appropriate action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites:

A network device managing apparatus for monitoring and managing a network device based on processing first display information of the device and second display information linked from the first display information, said apparatus comprising:

recognizing means for recognizing link information embedded in the first display information;

obtaining means for obtaining instruction data to be used for displaying information based on the second display information;

acquiring means for acquiring management information of the device related to the second display information in accordance with the link information recognized by said recognizing means before said obtaining means obtains the instruction data to display the second display information;

generating means for generating output information corresponding to the second display information to prepare for displaying the acquired management information in a web page in a predetermined form by using the obtained instruction data; and

transferring means for transferring, to a predetermined communication link, the output information generated by said generating means.

In the context of this claim, the functionality “acquiring means for acquiring management information of the device related to the second display information in accordance with the link information recognized by said recognizing means before said obtaining means obtains the instruction data to display the second display information” renders the claim indefinite because it is unclear how the acquiring means acquires information related to the second display information in accordance with the link information recognized by the recognizing means before the instruction. How does the acquiring means acquire data IF the acquiring means is not told which, what and from where to acquire data.

Art Unit: 2151

It seems, the claims either lacks an essential means (step) or is incomplete.

Claims 2-13 are rejected for the same reasons as set forth in claim 1.

Claim 14 recites:

A network device managing apparatus comprising:
specifying means for specifying a device on a network as a management target;
acquiring means for acquiring management information including a first
property related to the device specified by said specifying means; and
generating means for generating first output information to display the
first property in a predetermined form in accordance with identification information of the
device,

wherein the first output information generated by said generating means
includes address information indicating a location of second output information in a
storage, the second output information including a second property related to the device
specified by said specification means, and

wherein the first property is different from the second property and both of
the first property and the second property are related to the same device specified by the
specifying means.

In the context of this claim, the functionality “wherein the first output information
generated by said generating means includes address information indicating a location of second
output information in a storage, the second output information including a second property
related to the device specified by said specification means” renders the claim indefinite because
the limitation refers to specified second property, however, in the claim, there is no description
or suggestion of such a specification.

Claim 15 is rejected due to its dependency on claim 14.

Applicant is advised to take an appropriate action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 14-15 are rejected under 35 U.S.C. 102(e) as anticipated by Prithviraj et al. (hereinafter Prithviraj, U. S. Patent No. 5,987,513).

As per claim 14, Prithviraj discloses a network device managing apparatus comprising:
specifying means for specifying a device on a network as a management target (fig. 12 item #1210, col. 23 L54 to col. 24 L64);

acquiring means for acquiring management information including a first property related to the device specified by said specifying means (fig. 12 item #1220, 1230, 1240, col. 23 L54 to col. 24 L64: the home page of the specified or selected device, which includes the general information); and

generating means for generating a first output information to display the first property in a predetermined form in accordance with identification information of the device (fig. 12 item #1230, 1240, col. 23 L54 to col. 24 L64),

wherein the first output information generated by said generating means includes address information indicating a location of second output information in a storage (fig.12 item #1240: first web page including the hyperlinks to other information; col. 24 L65 to col. 25 L29: an applet displayed within the web page when actuated by the user, displays the error conditions of

Art Unit: 2151

the network device, obtained from the storage location), the second output information including a property related to the device specified by said specification means (i.e. hyperlinks associated with the information group of interest, See fig. 12 item #1250, col. 4 L60 to col. 5 L14, col. 6 L38-52, col. 23 L42 to col. 24 L67, col. 25 L1-42), and

wherein the first property is different from the second property and both of the first property and the second property are related to the same device specified by the specifying means (fig. 12, col. 4 L60 to col. 5 L14, col. 6 L38-52: the first property being the general information of the network device and the second property being the error conditions or log of events; col. 24 L65 to col. 25 L42).

As per claim 15, Prithviraj discloses the apparatus wherein the first property and second property are different properties and each property is related to one of network information, status information of the device, error information and information for indicating details of a protocol of the network (fig. 12, col. 4 L60 to col. 5 L14, col. 6 L38-52: the first property being the general information of the network device and the second property being the error conditions or log of events; col. 24 L65 to col. 25 L42).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prithviraj et al. (hereinafter Prithviraj, U. S. Patent No. 5,987,513) in view of Scholl et al. (hereinafter Scholl, U. S. Patent No. 6,145,001).

As per claim 1, Prithviraj discloses a network device managing apparatus for monitoring and managing a network device based on processing first display information of the device and second information linked from the first display information (see Abstract, col. 2 L45 to col. 3 L67), said apparatus comprising:

recognizing means for recognizing link information embedded in the first display information (fig. 12 item #1230, 1240, 1250, col. 19 L46 to col. 20 L67, col. 23 L54 to col. 24 L64);

obtaining means for obtaining instruction data to be used for displaying information based on the second display information (fig. 12 item 31230, 1240, 1250, col. 23 L54 to col. 24 L64: i.e. user actuating one of the hyperlinks to select the information group of interest);

acquiring means for acquiring management information of the device related to the second display information in accordance with the link information recognized by said recognizing means (fig. 12 item #1260, 1270, 1280 and 1290, col. 23 L54 to col. 24 L65);

Art Unit: 2151

generating means for generating output information corresponding to the second display information to prepare for displaying the acquired management information in a web page in a predetermined form by using the obtained instruction data (fig. 12 item #1280, col. 23 L54 to col. 24 L65); and

transferring means for transferring, to a predetermined communication link, the output information generated by said generating means (fig. 12 item #1290, col. 21L5-21, col. 23 L54 to col. 24 L65).

However, Prithviraj does not disclose the acquiring means for acquiring management information of the device related to the second display information in accordance with the link information recognized by said recognizing means before said obtaining means obtains the instruction data to display the second display information (i.e. Prithviraj does not disclose the process or apparatus wherein the management information is pre-acquired from the managed devices and may be pre-stored in database such as MIB database).

Scholl, from the same field of endeavor explicitly discloses the process of acquiring the management information from the managed devices and storing the management information in a management information database and providing the data to the administrator or user when desired (fig. 6 item #26, 24, 29, 30, col. 7 L2-13, col. 7 L57 to col. 8 L14).

Therefore it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Prithviraj in view of Scholl in order to acquire the management information of the device related to the second display information in accordance with the link information before obtaining instruction for displaying the second display information.

Art Unit: 2151

One of ordinary skilled in the art would have been motivated because it would have enabled the user to retrieve the information locally from a database in order to manage the network and/or devices (col. 7 L58 to col. 8 L14).

As per claim 2, Prithviraj discloses the apparatus wherein the management information is information in an MIB form (Prithviraj, col. 8 L55 to col. 9 L65, col. 15 L10-55; Scholl, col. 7 L2-14).

As per claim 3, Prithviraj discloses the apparatus wherein said generating means generates the output information based on data, which includes an HTML format for defining the predetermined form, and management information item of the device (i.e. generating output information based on HTML template, fig. 11 item #1140, 1150, fig. 12, col. 12 L31 to col. 13 L42, See Appendix I-V).

As per claim 4, Prithviraj discloses the apparatus wherein said generating means generates the output information in an HTML format (fig. 11 #1150, fig. 12 item #1240, col. 23 L54 to col. 24 L64, See Appendix I-V).

As per claim 5, Prithviraj discloses the apparatus comprising means for outputting the output information (such as display or browser, fig. 11, fig. 12, col. 23 L54 to col. 24 L64).

As per claim 6, Prithviraj discloses the apparatus comprising output means for displaying the output information in accordance with a URL (hyperlink is a URL and browser outputs the information based on URL, fig. 11, fig. 12, col. 10 L17-64, col. 23 L54 to col. 24 L64).

As per claims 7-13, they do not teach or further define over the limitations in claims 1-6 (i.e. claims 7-12 discloses similar subject matter as in claims 1-6, but in method form; and claim

Art Unit: 2151

13 in a product form). Therefore claims 7-13 are rejected for the same reasons as set forth in claims 1-6.

Additional References

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Land et al., US Patent No. 6,008,805: Method and Apparatus for Providing Multiple Management Interfaces to a Network Device (Similar Problem Solving Area).
- b. Bawden et al., US Patent No. 6,003,077: Computer Network System and Method for Using Domain Name System To Locate MIB Module Specification and web browser for managing SNMP Agents.
- c. Touboul, US Patent No. 6,125,390: Method and Apparatus for Monitoring and Controlling in a Network.
- d. Weber et al., US 6,480,901 B1: System for Monitoring and Managing devices on a network from a management station via a proxy server that provides protocol converter.
- e. Leong et al., US Patent No. 5,996,010: Method of Performing a network management transaction using a web-capable agent.

Art Unit: 2151

Conclusion

This Action is made Non-Final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAMAL B. DIVECHA whose telephone number is 571-272-5863. The examiner can normally be reached on Increased Flex Work Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kamal Divecha
Art Unit 2151
January 10, 2007.



ZARNI MAUNG
PATENT EXAMINER